REMARKS/ARGUMENTS

Claims 1-7 and 10-21 are pending in the application.

Claims 1-7 and 10-21have been rejected.

Claim 11 has been amended to correct minor informalities.

No new matter has been added.

Reconsideration of the Claims is respectfully requested.

1.   In the above referenced Office Action:

a.   Reference documents from the Information Disclose Statement submitted on June 18, 2010, have not been considered in view of 37 CFR 1.98(a)(2)(ii);

b.   Claims 11 and 15 have been objected to because of informalities;

c.   Claims 1, 7, 15 and 21 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0067704, to Ton ("Ton") in view of Perkins, IP MOBILITY SUPPORT (October 1996) ("Perkins I");

d.   Claims 2, 3, 10, 11, 16 and 17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ton in view of Perkins as applied to Claims 1 and 15 above, and further in view of U.S. Patent Application Publication No. 2002/0078238, to Troxel ("Troxel");

e.   Claims 4 and 12 have been rejected under 35 USC 103(a) as being unpatentable over Ton in view of Perkins I and further in view of Troxel as applied to Claims 2 and 10 above, and further in view of Jue et al. "DESIGN & ANALYSIS OF REPLICATED SERVER ARCHITECTURE FOR SUPPORTING IP-HOST MOBILITY" ("Jue"), and Tiedmann et al., U.S. Patent No. 6,615,050 ("Tiedmann");

f.   Claims 5, 6, 13 and 14 have been rejected under 35 USC 103(a) as being unpatentable over Ton in view of Perkins I and further in view of Troxel as applied to Claims 2 and 10 above, and further in view of Perkins, "MOBILE NETWORKING THROUGH MOBILE IP (1998) ("Perkins II") and U.S. Patent No. 5,590,092, to Fehnel ("Fehnel");

g.   Claim 18 has been rejected under 35 USC 103(a) as being unpatentable over Ton in view of Perkins I and further in view of Troxel as applied to claim 17 above, and further in view of Jue; and

h.   Claims 19 and 20 have been rejected under 35 USC 103(a) as being unpatentable over Ton in view of Perkins I and further in view of Troxel as applied to Claim 17 above, and further in view of Perkins II.

The rejections and objections have been traversed and, as such, the applicant respectfully requests reconsideration of the allowability of claims 1-7 and 10-21.

2.   Objection to the Information Disclosure Statement (IDS)

Reference documents from the Information Disclose Statement submitted on June 18, 2010, have not been considered in view of 37 CFR 1.98(a)(2)(ii).

Applicant respectfully submits herewith a legible copy of the foreign applications identified in the IDS submitted on June 18, 2010, and requests the consideration by the Examiner requested by the earlier filed IDS. Applicant notes that the claims as presented in the foreign sister case overcome these references.

3.   Objection to the claims

Claims 11 and 15 have been objected to due to informalities.

Applicant respectfully submits that the claims have been amended to overcome the objection.

4.   Rejection under Section 103

The same references are presented in the instant case, although the Office Action submits that "Applicant's arguments . . . are moot in view of the new ground(s) of rejection necessitated by the amended language and/or new limitations." (Office Action at p. 27). Applicant respectfully submits that the hypothetical combination of the cited references does not set out a *prima facie* showing of obviousness. First, as evidenced by the instant case's European sister being allowed over the non-patent literature of Perkins I, Perkins II, and Jue. Second, as no

further teaching or disclosure of the Ton reference supporting a hypothetical combination that would achieve the invention as set out by Applicant's claims.

a.   ***Applicant's claims were previously amended to mirror those of the issued European sister case, which were allowable over the* Perkins I, Perkins II, *and* Jue *NPL references***

Applicant respectfully submits that the amended claims as presented overcome the rejection under Section 103.   Under the International Search Report (ISR), the examining authority considered Perkins I as category Y, in which:

"Y" document of particular relevance; the claimed invention
cannot be considered to involve an inventive step when the
document is combined with one or more other such docu-
ments, such combination being obvious to a person skilled
in the art.

The references of Jue and Perkins II, at most, were considered in the ISR as category A, in which:

"A" document defining the general state of the art which is not
considered to be of particular relevance

The claims as presented in the Applicant respectfully submits that the claims as presented mirror those of its foreign sister case, which issued June 1, 2010 as EP 1 438 809 B1.   This European sister case issued over the cited references of *Perkins I*, *Perkins II*, and *Jue*, which are cited in the Office Action in the rejection under Section 103 to the instant case.

b.   ***the post-attachment redundancy of* Ton *refers to an "advertisement message" as constructed by attaching a special Extension to a router advertisement, and does not lead to the hypothetical combination with Perkins I, Perkins II, nor Jue which where overcome in EPO prosecution of the sister case***

As set out above, the foreign sister case dismisses Perkins I, Perkins II, and Jue as a basis for sustaining an obviousness, or "category Y", rejection of the claims.

The post-attachment device of Ton was not cited by the EPO as a basis for rejection in view of the claims presented.   Applicant respectfully submits that the addition of Ton to the Perkins I, Perkins II, and/or Jue references does not provide a *prima facie* showing of obviousness to Applicant's claims.

For example, the Office Action of the instant case refers to Ton as "where the subscriber unit can receive an advertisement to be aware of another home agent in addition to the primary home agent that is pre-assigned to the subscriber unit as evidenced by the fact that one of ordinary skill in the art would clearly recognize (see pg. 3, [0036, lines 9-12; 0039, lines 3-41) . . . ." (Office Action at p. 4).

But an Advertisement under Ton does not pertain to Applicant's claims because it is an "advertisement message constructed by attaching a special Extension to a router advertisement . . . message." (*Perkins I* at p. 5; *see* Ton ¶ 0038).

As understood, Ton was cited by the Office Action for general Home Agent discussion purposes, without providing a suggestion or motivation, or elements, for the avoidance of registration failure as set out in Applicant's claims. Ton does not teach or disclose initially programming addresses for a plurality of home agents in a subscriber unit prior to an initial registration attempt to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications.

The Office Action submits that "Applicant has failed to interpret and appreciate the combined teachings of well-know prior art Ton and Perkins [I] that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art." (Office Action at p. 27). Applicant respectfully submits that these references do not teach or disclose this clearly recognized language or claimed features of Ton.

For example, the portion of Ton referred to in the Office Action recites that "[w]hen visiting another network a MN will register with that network through a Foreign Agent ("FA"). The network will provide a number of Home Agents through which the MN may register, although the MN will be statically configured [by the network operator] to primarily register with a given HA." (Ton ¶ 0036 (*see* Office Action at p. 28)).

Ton recites that each "Mobile Node will have an IP address and be attached to the network through a Home Agent. When visiting another network a Mobile Node will register with that network through a Foreign Agent. The network will provide a number of Home Agents thorugh which the Mobile Node may register, although the Mobile Node will be statically

configured [by the network operator] to register with a given Home Agent." (Ton ¶¶ 0023, 0028 (*see* Office Action at p. 28)). That is, additional Home Agents in Ton are provided post-attachment and does not teach or suggest avoidance of registration failure as set out by Applicant's claims.

Instead, Ton recites a "network will provide a number of Home Agents through which the Mobile Node may register, although the Mobile Node will be statically configured [by the network operator] to register with a given Home Agent." (Ton ¶ 0023).

c.   *Office Action submits that "failed attachment" not referenced in Applicant's claims*

The Office Action points to the aspect that Applicant's argument refers to "failed attachment."

Clarifying, the Applicant's claims refer to, *inter alia*, "initially programming addresses . . . prior to an initial registration attempt with a primary home agent to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications . . . ." (Applicant's Independent Claim 1; *see also, e.g.,* Applicant's Independent Claims 10 and 15). In this regard, Applicant respectfully submits that the cited references of Ton, Perkins I, Perkins II, and Jue, do not teach or disclose referring to avoid registration failure as set out by Applicant's claims.

In contrast to the hypothetical combination presented, Applicant's Independent Claim 1 recites, *inter alia*, a "method for registering a subscriber unit upon initial use within a cellular system, the method comprising: initially programming addresses for a plurality of home agents in the subscriber unit *prior to an initial registration attempt with a primary home agent to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications*, wherein the plurality of home agents includes the primary home agent and a plurality of secondary home agents; attempting the initial registration attempt with the primary home agent; when the subscriber unit fails to achieve registration via the initial registration attempt with the primary home agent of the plurality of home agents, selecting a secondary home agent from the plurality of secondary home agents; and attempting registration with the selected secondary home agent."

Applicant's Independent Claim 15 recites, *inter alia,* a "subscriber unit that operates within a cellular system, the subscriber unit comprising: an antenna; a radio frequency unit coupled to the antenna; and at least one digital processor coupled to the radio frequency unit that executes software instructions causing the subscriber unit to: retrieve addresses, stored in the subscriber unit, for a plurality of home agents in the subscriber unit *for an initial registration attempt with a primary home agent to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications,* wherein the stored address for the plurality of home agents includes a primary home agent and a plurality of secondary home agents *which have been initially stored prior to the initial registration attempt;* attempt the initial registration with the primary home agent; *when failing to achieve registration* with the primary home agent *via the initial registration attempt,* selecting a secondary home agent from the plurality of secondary home agents; and attempt registration with the selected secondary home agent."

d.   Addition of further references to the hypothetical combination of *Ton* and *Perkins I* do not overcome the lack of a *prima facie* showing of obviousness

Independent Claim 10 had been rejected under the hypothetical combination of the statically pre-assigned" Home Agent of Ton, with the Internet-based home agent discovery of Perkins I, and datapath work-around of Troxel does not teach or disclose all of Applicant's claim elements. (*see* Office Action at p. 11). For example, initially programming addresses for a plurality of home agents in the subscriber unit prior to an initial registration attempt with a primary home agent to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications.

The cited text of Troxel recites that "a mobile node 1110c may be capable of communicating with more than one foreign agent 112a, 112b. In fact, in some implementations, a mobile node 110c ranks foreign agents 112a, 112b . . .and establishes a local binding with the highest ranking agent." (Troxel ¶ 0051). The ranking is based upon local bindings, and upon foreign agents for the local bindings. The bindings are based upon Troxel's recitation that "[s]ometimes, however, communication between the foreign and home agents may fail [after the attachment], for example, due to problems at the home agent or routers carrying messages between home and foreign agents. In such circumstances, the mobile node may find itself isolated and unable to receive IP (Internet Protocol) addressed messages. A variety of

techniques, described below, can enable a mobile node to continue receiving IP addressed messages from other network nodes even when the mobile node fails to establish, or loses, connectivity with a home agent. In addition to preserving incoming message delivery, the techniques may place minimal, if any, burden on network resources." (Troxel ¶ 0031). That is, Troxel recites a workaround for a data path.

In contrast to the hypothetical combination presented in the Office Action, Applicant's Independent Claim 10 recites a "method for registering a subscriber unit upon initial use within a cellular system, the method comprising: initially programming addresses for a plurality of home *agents in the subscriber unit prior to an initial registration attempt with a primary home agent to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications*, wherein the plurality of home agents includes the primary home agent and a plurality of secondary home agents; attempting the initial registration attempt with the primary home agent; when the subscriber unit fails to achieve registration via the initial registration attempt with the primary home agent of the plurality of home agents, selecting a first secondary home agent from the plurality of secondary home agents based upon a rank ordering of the plurality of secondary home agents; and attempting registration with the selected secondary home agent."

e.   no prima facie *showing of obviousness is made because the cited references do not teach or disclose all of Applicant's limitations*

The Office Action submits that "one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413,208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091,231 USPQ 375 (Fed. Cir. 1986)." (Office Action at p. 27).

But the cited references, as set out in the hypothetical combination(s) set out in the Office Action, do not teach or disclose all of Applicant's limitations as set out in the claims.

In re Keller submits that "the test is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d at 425 (citations omitted).

In kind with *In re Keller*, Applicant respectfully submits that "that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would [not] select the elements from the cited prior art references for combination in the manner claimed." *In re Rouffet*, 149 F.3d 1350, 1356 (Fed. Cir. 1998) (citations omitted); *In re Translogic Technology, Inc.*, 504 F.3d 1249 (Fed Cir. 2007) (post-*KSR* opinion citing *In re Rouffet* with approval).

Applicant respectfully submits that the cited references do not suggest to one of ordinary skill in the art, *inter alia*, to initially program addresses for a plurality of home agents in the subscriber unit prior to an initial registration attempt with a primary home agent to avoid registration failure that precludes the subscriber unit from receiving Internet Protocol (IP) communications. (*see, e.g.,* Applicant's claims).

Applicant respectfully submits that the cited hypothetical combinations of Ton and *Perkins I*, and/or Ton, *Perkins II*, *Jue,* and Troxel do not teach or suggest all of Applicant's limitations as set out in its Independent claims, and accordingly to Applicant's dependent claims that depend therefrom, as shown in the above discussion. As submitted, the cited references do not teach or suggest the registration failure as set out by Applicant's claims.

Applicant respectfully submits that the hypothetical combination of the post-attachment redundancy of Ton in view of the post-attachment redundancy of *Perkins I*, or of the various references further cited, would not achieve Applicant's claimed invention of Claims 1-7 and 10-21.

CONCLUSION

The Applicant respectfully submits that Claims 1-7 and 10-21 in the Application are in condition for allowance, and respectfully requests allowance of such Claims.

No additional fees are believed to be due. In the event that additional fees are due or a credit for an overpayment is due, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment to Garlick Harrison & Markison Deposit Account No. 50-2126.

The Examiner is invited to contact the undersigned by telephone, facsimile, or email if the Examiner believes that such a communication would advance the prosecution of the present invention.

RESPECTFULLY SUBMITTED,
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